



**California Regional Water Quality Control Board
Central Coast Region**



Linda S. Adams.
Secretary for

Environmental Protection

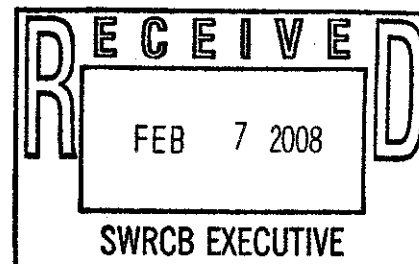
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Arnold Schwarzenegger
Governor

2/19/08 BdWrkshp Item 10
Water Quality Enf. Policy
Deadline: 2/7/08 by 12 p.m.

February 7, 2008

Dorothy Rice, Executive Director
State Water Resources Control Board
By email to commentletters@waterboards.ca.gov



Dear Ms. Rice:

**CENTRAL COAST WATER BOARD'S COMMENTS ON DRAFT ENFORCEMENT
POLICY**

This letter provides our comments on the draft Enforcement Policy dated January 8, 2008. Our comments are regarding Section IX, Supplemental Environmental Projects.

The Management Coordinating Committee has frequently discussed the limitations of the Water Boards to shift priorities to do certain needed work due to the very tight constraints of our budget and how our allocations and tasks within those allocations are so inflexible. The MCC expressed frustration with the fact that we sometimes see a need for a specific project to address the highest priority within one of our watersheds and yet our budget is too inflexible to apply our resources to the solution. SEPs can go a long way to addressing that dilemma. SEPs are one of the few opportunities we have to effect and direct on-the-ground improvements outside of our constrained budget. We should be focused on ways to enhance this great opportunity to make lemonade out of lemons (water quality improvements out of violations).

In the Central Coast Region, we see the effectiveness of SEPs first hand, and the way to make the program more effective is to lessen the restriction on SEPs, not increase them. Cutting a check hurts the violator the same regardless of whom it is made out to (realizing that they can't cut the check to themselves or to something they would pay for anyway). Dischargers should be able to write a check to an organization that does excellent water quality work, like the Elkhorn Slough Foundation, for a water quality project that the regional board identifies as high priority, and be done. Regional water boards then provide oversight to make sure the third party continues to do great work, and if they don't, they are no longer eligible to get SEP funds. The policy should be based on evaluating benefits to water quality, not uninformed biases.

We agree that SEPs should be carefully reviewed and monitored. We agree with many of the proposed changes in this section. For instance, requiring a third-party SEP recipient to represent that it will spend the money consistent with the order is a good idea. The Central Coast Water Board believes SEPs are an important tool for

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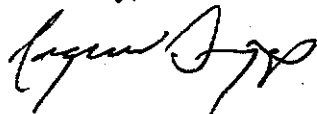
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improving water quality, for increasing our ability to leverage our staff work to make real on-the-ground improvements in our watersheds, and that their use should be encouraged and made easier, not more difficult. For those regions that are not as interested in using SEPs, or find that the required oversight is not consistent with their region's priorities, they simply don't need to approve SEPs. However, this view of SEPs by one or more regions shouldn't affect state policy to the detriment of all regions, and to the detriment of our ability to achieve tangible improvements in our watersheds. In many cases, our projects are in concert with the priorities and efforts of local watershed groups, or agencies like the Department of Fish and Game and the Coastal Conservancy. These partnering opportunities go a long way in our cooperative relationships with these organizations, their perception of our organization, and our overall mutual effectiveness.

Specifically, the current policy proposed cap on the value of SEPs at 25% of the total monetary assessment is too restrictive. We don't agree that a cap is necessary at all, but if one is to be applied, we recommend 75%. As stated above, some regions will choose to send 100% of penalty dollars to the CAA. In our case, we have done just that when we either have no SEP proposal, or we have rejected the SEP proposal because it has been inadequate. Consequently, regardless of a cap, money will flow to the CAA. If the State Board's CAA drops below its minimum criterion, the State Board Executive Director can simply issue a directive to regions to direct all ACL money to the account until it's restored (include that procedure in the policy for clarity). Or alternatively, we would be satisfied with the formula specified by the legislature for mandatory minimum penalty SEPs, which is \$15,000 plus 50% of the penalty amount that exceeds \$15,000 (Water Code section 13385(l)(1)). But the policy should provide for exceptions that a Regional Board can use to exceed the 50% maximum, if backed up by solid, supportable findings - such as a case where there is a really good project proposed, but it's only feasible (or much more feasible) if the percentage is X (some percentage greater than 50%). We do not object to the State Water Board oversight process presented in section F. We agree on the importance of oversight of fund use.

We appreciate this opportunity to provide comments.

Sincerely,



Roger W. Briggs
Executive Officer